

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FREIGHTQUOTE.COM, INC.,

Plaintiff,

v.

PACIFIC ATLANTIC FREIGHT,

Defendant.

Civil Action No. 1:08-cv-00823

Judge St. Eve
Magistrate Judge Nolan

PLAINTIFF'S MOTION FOR ENTRY OF DEFAULT

Plaintiff, Freightquote.com, Inc. ("Freightquote.com") respectfully requests that the Court enter default against defendant Pacific Atlantic Freight ("PAF") in this case.

I. SERVICE OF COMPLAINT AND SUMMONS

On February 7, 2008, Freightquote.com filed this Complaint against PAF alleging violation of the Lanham Act, federal trademark infringement, common law trademark infringement and unfair competition. PAF's Internet website lists its sole place of business and headquarters as 2899 Agoura Road, Suite 310, Westlake Village, California (Exhibit A). On February 13, 2008, a copy of the Complaint and Summons were served on Mr. Chimata Gandhi (manager) at the identified "PAF Headquarters," which turned out to be a mail forwarding address (Exhibit B). On March 5, 2008, additional copies of the Complaint and Summons were sent via overnight courier, facsimile and electronic transmission to the PAF headquarters location. Plaintiff received confirmation of receipt of each delivery (Exhibit C). The Affidavit of Service was received by the Clerk of the United States District Court for the Northern District of Illinois on March 19, 2008.

Service was proper according to California Code of Civil Procedure § 415.20(b) and Rules 4(e) and (h), Fed.R.Civ.P., making Defendant's responsive pleading due no later than March 15, 2008.

II. ENTRY OF DEFAULT AGAINST DEFENDANT IS APPROPRIATE

To date, despite being properly served, PAF has failed to answer, object or otherwise plead in response to the Complaint filed against it. Plaintiff's repeated attempts to notify PAF of the lawsuit (by hand delivery, phone, mail, fax and overnight courier) have gone unanswered. Although not required, Plaintiff also notified PAF of its intention to seek default judgment for PAF's failure to respond.

Entry of default against PAF is clearly warranted. Unum Life Insurance Co. v. Nichols, 2008 U.S. Dist. LEXIS 8766 at *4 (N.D. Ind. February 4, 2008), *citing* Hill v. Barbour, 787 F.Supp. 146, 148 n.4 (N.D. Ill. 1992) ("[E]ntry is recognition of the fact that a party is in default for failure to comply with the rules."); McDonald's Corp. v. Simon Marketing, Inc., 2002 WL 31056697 at *3 (N.D. Ill. September 16, 2002) (default entered for failure to answer complaint).

III. REQUESTED RELIEF

Upon entry of default and upon the Court's direction, Freightquote.com will seek entry of default judgment of the claims and allegations set forth in its Complaint. Specifically, Freightquote.com intends to seek an award of monetary damages pursuant to 15 U.S.C. §§ 1117(a)-(c), as well as its reasonable attorneys' fees and costs incurred with this action. Plaintiff also will seek a permanent injunction. See e.g., Lorillard Tobacco Co. v. Montrose Wholesale Candies & Sundries, Inc., 2007 U.S. Dist. LEXIS 66816 (N.D. Ill. September 10, 2007) (entering default judgment including a permanent injunction and trademark statutory damages under 15 U.S.C. § 1117(c)).

Respectfully submitted,

/s/ Raymond P. Niro, Jr.

Raymond P. Niro, Jr.

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Attorneys for Freightquote.com, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on March 27, 2008, I caused the foregoing PLAINTIFF'S MOTION FOR ENTRY OF DEFAULT to be electronically filed with the Clerk of the Court using the CM/ECF system, and that copies were served upon Defendant as follows:

by facsimile, email and Federal Express to:

Pacific Atlantic Freight
c/o Any authorized agent or representative
2899 Agoura Rd. Ste #310
Westlake Village, CA 91361
Fax: (805) 267-4835
info@freightshippingcenter.com

by Federal Express to:

Pacific Atlantic Freight
c/o Dennis Gershman
6167 Lake Lindero Dr.
Agoura Hills, CA 91301

/s/ Raymond P. Niro, Jr.
Attorney for Plaintiff